

## **REMARKS**

### **1. Status of the Claims**

Entry of the foregoing and reconsideration of the subject application are respectfully requested in light of the comments which follow.

Applicants' representative has noticed that the claims were misnumbered in the Amendment filed on April 13, 2011. Specifically, claim number "19" was not used. Applicants' representative respectfully requests that the Office correct misnumbered claim 20 to be renumbered "19" in accordance with 37 C.F.R. § 1.126. *See also* MPEP 608.01(j) and Form Paragraph 6.17. Accordingly, claim 19 is referred to hereinafter.

Claims pending: <sup>1</sup>	1, 4-7, 9, 10, 12-19
Claims previously canceled:	2-3, 8, and 11
Claims withdrawn:	none
Claims rejected:	1, 4-7, 9, 10, and 12-19
Claims now amended:	1, 4-6, 12-13, and 15-17
Claims now pending:	1, 4-7, 9, 10, 12-18, and 19

Support for the foregoing amendment can be found, for example, in at least the following locations in the original disclosure: the original claims and the specification, page 2, lines 1-2 and page 8, Table 2, *e.g.*, Example No. 29.

Amendments have been made without disclaimer of, or prejudice to, any canceled subject matter. Applicants reserve the right to file a continuation and/or divisional on any canceled subject matter.

### **2. Statement of Substance of the Interview**

Applicants' representative thanks the Examiner for the courtesy of granting a telephone Interview on June 20, 2011. During the Interview, the undersigned sought to better understand the basis for the rejection under 35 U.S.C. § 112 of claims 4, 10, and 12-20. The present Amendment and Remarks are consistent with the Interview.

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<sup>1</sup> Applicants' representative has noticed that claim 19 was not present in the Amendment filed on April 13, 2011, and therefore not properly added. Therefore, to avoid confusion, claim 19 is hereby cancelled.

**3. Rejection of the Claims Under 35 U.S.C. § 112, First Paragraph**

Claims 4, 10, and 12-19 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Office alleges that the specification fails to support the addition of an anionic direct dye in amounts that are outside the range of from 0 to 10%.

Applicants respectfully traverse the rejection to the extent it is applied to the amended claims. Amended claims 4 and 15 recite *inter alia* “1.9 to 10 % by weight, based on the total weight of the composition, of an anionic direct dye.” Thus, claims 4, 15, and claims dependent thereon do not recite amounts of anionic direct dye which are outside of the range of from 0 to 10%. Further, amended claims 4 and 15 find support for at least the lower boundary of 1.9 %, because the specification at least teaches the presence of 1.9 % Direct Dye 239 on page 8 of the specification. *See, e.g.*, see Table 2, Example Nos. 29 and 30. Direct Dye 239 is listed in the specification as an example of an anionic direct dye on page 3, lines 30-31 of the present specification. For at least these reasons, claims 4, 15, and claims dependent thereon, satisfy 35 U.S.C. § 112. Reconsideration and withdrawal of the rejection are respectfully requested.

**4. Rejection of the Claims Under 35 U.S.C. § 112, Second Paragraph**

Claims 4, 10, and 12-19 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. The Office alleges that the phrase “e) water to 100%, and an anionic direct dye” renders the claim indefinite, because “it is unclear as to the amount of anionic direct dye that may be present and the amount of water to 100% that may be added since applicant first recites ‘water to 100%’.” *See*, page 3 of the Office Action.

Applicants respectfully traverse the rejection to the extent it is applied to the amended claims. Amended claims 4 and 15 recite *inter alia* “e) 1.9 to 10 % by weight, based on the total weight of the composition, of an anionic direct dye, and f) water to 100%.” Therefore, amended claims 4 and 15 indicate a range of anionic direct dye to be added before the recitation of the phrase “water to 100%.” For at least these reasons, claims 4, 15, and claims dependent thereon

satisfy 35 U.S.C. § 112. Reconsideration and withdrawal of the rejection are respectfully requested.

**5. Rejection of the Claims Under 35 U.S.C. § 103(a)**

Claims 1, 5-7, and 9 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Luebke et al. (U.S. Patent No. 5,800,870) (hereafter “*Luebke*”) in view of Nagler (U.S. Patent No. 3,784,596) (hereafter “*Nagler*”). The Office asserts that *Luebke* discloses most of the recitations of claim 1, but concedes that *Luebke* does not recite the use of an organic pigment. However, the Office alleges that *Nagler* teaches a paper coating composition comprising a polymeric binder, organic solvent, rheological modifier, and a pigment, wherein the types of pigment may include inorganic pigments and organic pigments, such as quinacridone red and phthalocyanine blue. The Office further alleges that it would have been obvious to utilize an organic pigment, “such as phthalocyanine or quinacridone (a type of acridine pigment)” as the pigment,” because this substitution was a predictable use of a prior art element with a known function.

In the Response to Arguments section, the Office acknowledges Applicants’ argument that there is no teaching, suggestion, motivation or other reason to combine the references because a person of ordinary skill in the art could not have predicted that the combination would be operable. However, the Office alleges that motivation exists because *Nagler* teaches that virtually any pigment or colorant, e.g. quinacridone red and phthalocyanine blue, or inorganic pigment can be employed. The Office further asserts that “Applicant needs to provide a proper showing that the use of the instantly claimed organic pigments produces unexpected results as compared to other known pigments in the coating compositions of the primary reference.” *See*, page 5 of the Office Action.

Applicants respectfully traverse the rejection the extent it is applied to the amended claims. A finding of “obviousness requires a suggestion of *all limitations* in a claim.” *CFMT, Inc. v. Yieldup Int’l Corp.*, 349 F.3d 1333, 1342, 68 U.S.P.Q.2d 1940, 1947 (Fed. Cir. 2003) (emphasis added). Amended claim 1 recites *inter alia* “1.9 to 10% by weight, based on the total weight of the composition, of an anionic direct dye.” In contrast, no combination of *Luebke* and

*Nagler* teach an anionic direct dye. For at least these reasons, claims 1 and claims dependent thereon are non-obvious. Reconsideration and withdrawal of the obviousness rejection are respectfully requested.

### **CONCLUSION**

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited. Applicants' representative is signing in his capacity under 37 C.F.R. §1.34 on behalf of Applicants.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayments to Deposit Account 50-0573. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3). If no further response is received by November 16, 2011, then this paragraph is intended to be a CONSTRUCTIVE NOTICE OF APPEAL in accordance with 37 C.F.R. § 41.31(a)(1).

Dated: July 13, 2011

Respectfully submitted,

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